

STATE OF HAWAII
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Honolulu, Hawai'i

March 09, 2007

FILE NO.: CC HA-06-03
Existing 180-Day Exp.: May 4, 2007

**Board of Land and
Natural Resources**
State of Hawai'i
Honolulu, Hawai'i

REGARDING: Request to Extend the Processing Period in Order to Process a Contested Case Hearing for Conservation District Use Application (CDUA) HA-3269 for the Cohen Single Family Residence (SFR)

APPLICANT: Jonathan Cohen,
c/o Randy Vitousek, Esq., Cades Schutte LLP,
75-170 Hualalai Road, Suite 303, Kailua Kona, HI 96740

LANDOWNER: Aloha Properties, LLC

LOCATION: Pao'o, North Kohala, Island of Hawai'i

TMK: (3) 5-7-001:005

AREA OF PARCEL: ≈10.61 acres

USE: ≈ 5,000 square feet (ft²)

SUBZONE: Resource

BACKGROUND:

On April 19, 2006, Roy A Vitousek, III, Esq., acting on behalf of applicant Jonathan Cohen, requested a Contested Case hearing to challenge the Office of Conservation and Coastal Land's recommendation to deny Mr. Cohen's Conservation District Use Application (CDUA) HA-3269 to construct a single family residence at the above mentioned parcel in Pao'o, North Kohala, Hawai'i.

Two other intervenors subsequently petitioned to be party to the case: *Maika'i Kamakani 'O Kohala, Inc.* and *Kamakani 'O Kohala Ohana, dba Kako'o.*

TIME EXTENSION REQUESTS:

On April 20, 2006, the OCCL notified Mr. Vitousek that the processing deadline for the application had been extended to August 7, 2006.

On July 14, 2006 the Board of Land and Natural Resources granted a second request to extend the processing deadline to November 5, 2006.

On July 24, 2006 a Hearing on Standing and a Pre-Hearing Conference were held in Kailua-Kona in Hawai'i County. Both intervenors were granted standing. The Evidentiary Hearing was set for Sept 20-23 in Hawi, Hawai'i County.

On September 5, 2006 OCCL received a request from Mr. Vitousek requesting a postponement of the hearing and an additional 180-day extension of the processing deadline. The Board granted the request, extending the processing deadline to May 4, 2007.

On February 14, 2007 OCCL received a request from Mr. Vitousek to extend the processing period an additional six months, to November 5, 2007 [**Exhibit 1**].

AUTHORITY FOR GRANTING EXTENSIONS:

The authority for granting time extensions to the CDUA processing period is provided in Section 183C-6(b), HRS, which states that "...when a contested case hearing is required pursuant to Chapter 91, the one-hundred eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the Board."

DISCUSSION:

Mr. Vitousek's request to extend the processing period an additional 180 days would make the new deadline November 5, 2007. Staff supports the applicant's request.

Staff, therefore, recommends as follows:

RECOMMENDATION:

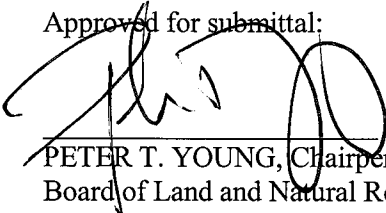
That the Board of Land and Natural Resources grant Mr. Vitousek's request to extend the processing period on CDUA HA-3269 180 days – bringing the deadline to November 5, 2007.

Respectfully submitted,



Michael Cain
Staff Planner

Approved for submittal:



PETER T. YOUNG, Chairperson
Board of Land and Natural Resources

Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvitousek@ca des.com

February 13, 2007

Peter T. Young, Chairperson
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Samuel J. Lemmo, Senior Planner
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

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AND COASTAL LANDS
2007 FEB 14 A 8:52
DEPT. OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

Re: Conservation District Use Application HA-3269
DLNR File No.: CC HA-06-03; TMK: (3) 5-7-001:005
Applicant: Jonathan Cohen, Aloha Properties, LLC

Dear Mr. Young and Mr. Lemmo:

The purpose of this letter is to request an extension of the decision period with respect to the above-referenced conservation district use permit application. The current expiration date is May 4, 2007. On behalf of the Applicant, Jonathan Cohen/Aloha Properties, LLC, may we hereby request a 6-month extension to November 5, 2007.

We have continued the contested case hearing from the week of March 12-16, 2007, to the week of September 10-14, 2007. This was at the request of the Applicant and with the agreement of all parties. The Applicant is pursuing efforts to have the property acquired by an entity or individual who will hold it for conservation purposes.

EXHIBIT |

C S

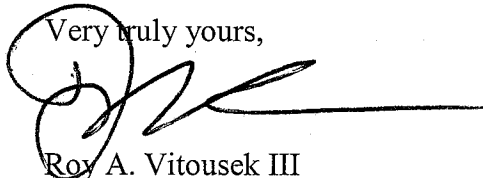
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Peter T. Young, Chairperson
Samuel J. Lemmo, Senior Planner
February 13, 2007
Page 2

If you have questions or require additional information, please let me know.

Very truly yours,

A handwritten signature in dark ink, appearing to be 'Roy A. Vitousek III', with a long horizontal line extending to the right.

Roy A. Vitousek III

for

CADES SCHUTTE

A Limited Liability Law Partnership

RAV:tmt

cc: Louis L.C. Chang, Hearing Officer
Linda L.W. Chow, Esq.
David Kimo Frankel, Esq.
Richard Schulze, Esq.
Jonathan Cohen

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